

Item # \_\_\_\_\_

Prepared by: Gloria Kelly  
Real Estate Services

Approved by: \_\_\_\_\_  
Assistant County Attorney

**RESOLUTION APPROVING AN AMENDMENT TO AN EXISTING LEASE AGREEMENT LEASING 145 ACRES OF CHICKASAW BASIN AUTHORITY PROPERTY, LOCATED WITHIN THE CITY OF MILLINGTON, TO SILVEY HOME BUILDERS FOR HARVESTING AND REMOVING HAY FOR AN ANNUAL RENTAL IN THE AMOUNT OF \$576.00 AND AUTHORIZING THE SHELBY COUNTY MAYOR TO EXECUTE THE AMENDMENT TO AGREEMENT. SPONSORED BY COMMISSIONER WYATT BUNKER.**

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**WHEREAS**, The Chickasaw Basin Authority owns certain real property known as Dam #5 (approximately 910 acres in size) located on the east side of Wilkinsville Road, south of Walker Road, within the City of Millington, which property being further identified as Shelby County Tax Parcel Nos. **M0105 00012C, M0105 00182, M0105 00146 and M0105 00150**; and

**WHEREAS**, The Chickasaw Basin Authority has leased 145 acres of the same to Silvey Home Builders under the terms of a five (5) year lease dated April 12, 2004, which is attached hereto as Exhibit "A", and incorporated herein by reference, for harvesting and removing hay to generate revenues to offset its ongoing operational expenses; and

**WHEREAS**, The existing Lease Agreement provides Silvey Home Builders the option to renew this lease for one (1) additional five (5) year term for an annual rental in the amount of \$ 576.00; and

**WHEREAS**, Silvey Home Builders desires to exercise its option to renew this lease as provided under the terms and conditions stated in the attached Amendment to Agreement, which is attached hereto as Exhibit "B", and incorporated herein by reference; and

**WHEREAS**, The Chickasaw Basin Authority reviewed this matter and afterwards, approved a motion during its regularly scheduled meeting on February 13, 2009, approving said Amendment to Agreement to lease said 145 acres of land to Silvey Home Builders for harvesting and removing hay, under the terms and conditions stated in the aforescribed Amendment to Agreement for one (1) additional five (5) year term for an annual rental in the amount of \$ 576.00.

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE**, That the aforescribed lease of 145 acres of land owned by the Chickasaw Basin Authority to Silvey Home Builders for harvesting and removing hay, under the terms and conditions stated in the aforescribed Amendment to Agreement be and the same is hereby approved.

**BE IT FURTHER RESOLVED,** That the Mayor be and he is authorized to execute the attached Amendment to Agreement and any other documents necessary to effect the lease of said real property to Silvey Home Builders for the aforementioned purpose.

**BE IT FURTHER RESOLVED,** That the lease rental payments from this lease totaling \$ 2,880.00 shall be credited to Revenue Account No. 863-300502-4723.

**BE IT FURTHER RESOLVED,** That this Resolution shall take effect from and after the date it shall have been enacted according to due process of law, the public welfare requiring it.

\_\_\_\_\_  
A C Wharton, Jr., County Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of County Commission

ADOPTED \_\_\_\_\_

## LEASE

THIS LEASE AGREEMENT made and entered into this 12 day of ~~March~~<sup>April</sup>, 2004, by and between CHICKASAW BASIN AUTHORITY AND SHELBY COUNTY GOVERNMENT, (hereinafter referred to as "Lessors") and SILVEY HOME BUILDERS, (hereinafter referred to as "Lessee").

### WITNESSETH:

1. The Lessors, for and in consideration of rents and covenants herein made by Lessee, hereby lease to Lessee the following described property located in the City of Memphis, County of Shelby, Tennessee:  

Approximately 145 acres of a 200 acre tract of land which is that portion of the real property described in Exhibit A, being that area shaded and which Exhibit is attached hereto and incorporated herein by reference. Known as Farm No. 3063 by the Farms Service Agency.
2. Lessee shall use the leased premises solely for the purpose of harvest and removal of hay. Lessee agrees to harvest and remove the hay in accordance with the following terms: (1) Hay to be harvested will come from permanently established hay covered area of the site; (2) Hay must be cut and baled in a minimum of two (2) times annually; (3) Lessee will be responsible for repairing any erosion due to or as a result of Lessee's operation on the premises; (4) Lessee has the option to seed the property at his own expense for the purpose of yield enhancement; (5) any cultivation for planting seed must first be approved by , in writing; (6) a maintenance application of 600 pounds of 15-15-15 fertilizer per acre as recommended by a soil test to be applied annually; and (7) open areas not suitable for hay harvest will be mowed to a height of 4 inches at least two (2) times annually. The dam must be completely cut prior to the annual visit of the State of Tennessee safe dam inspection in the fall of each year. No part of the premises shall be used for any other purpose, in any manner whatsoever. No Hunting is allowed. No Subleasing is allowed.
3. The term of this Lease shall be on a calendar year basis (January 1 through December 31) for a five-year period beginning in 2004. An option to renew for one (1) additional five-(5) year period is provided, subject to mutual agreement of the parties.
4. Lessee shall pay as annual rent for the aforesaid property the sum of **FIVE HUNDRED SEVENTY SIX AND NO/100 (\$576.00) Dollars** payable on or before December 31, 2004 and or before December 31 of each lease year thereafter during the Lease Term, without demand.
5. Unless advised to the contrary in writing, Lessee shall make all lease payments to the Chickasaw Basin Authority, c/o Shelby County Engineer, 3<sup>rd</sup>, 160 North Main Street, Memphis, Tennessee 38103.
6. In the event of default of any lease payment, the cure of which is not made within thirty (30) days, Lessors may declare this Lease forfeit have the right to re-enter, take and retain possession of the premises. Lessee, in such event, will be liable for any and all damage to the premises, if any.

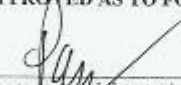
## EXHIBIT "A"

7. Lessee agrees that no alteration, modification or improvements shall be made to the property without the prior written consent of Lessors. Any such approved improvements, alterations or modifications will be made at the sole expense of Lessee.
8. Lessee shall provide, at its expense, Comprehensive Public Liability Insurance in the amount of \$1,000,000.00, combined single limits covering property damage and bodily injury with the Lessors named as additional insureds. Lessee shall deliver to Lessors said Certificate of Insurance certifying such insurance is in full force and effect.
9. Lessee further acknowledges that the leased premises was acquired by the Lessors with regard to construction of a dam and that portions of the leased premises may be subject to flooding over which the Lessors have no control. The Lessee acknowledges that the Lessors have made no warranty of any kind as to the extent of land or any portion of the leased premises, which may be flooded from time to time.
10. Lessors reserve the right to cancel this Lease upon giving thirty (30) days written notice should the Lessee fail to carry out the hay harvesting or mowing as required herein.
11. Lessee hereby agrees to indemnify and hold harmless Lessors for any and all damages arising under this Agreement as a result of negligence or fault of Lessee and shall forever hold harmless and indemnify Lessors for all claims, actions, judgments or liability of any nature whatsoever, including without limitation, court costs, expenses and attorney fees.
12. Lessors shall not be responsible for equipment or materials used by or for the Lessee, nor shall Lessors be responsible for any loss or damage suffered by Lessee due to climatic conditions or environmental incidents, including, but not limited to, floods, droughts, accidents, fire acts of God or any other such losses.

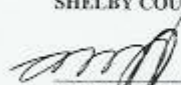
IN WITNESS WHEREOF, the parties hereto have executed this Lease for the purposes stated herein, the day and date first above written.

### LESSORS:

#### APPROVED AS TO FORM

  
Contract Administrator/  
Assistant County Attorney

#### SHELBY COUNTY GOVERNMENT

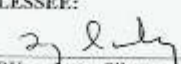
  
A C Whiston, Jr., Mayor


#### CHICKASAW BASIN AUTHORITY

BY: 

TITLE: 

### LESSEE:

  
BY: Larry Silvey

TITLE:  Silvey Home Builders

[illegible]



## EXHIBIT "A"

### AMENDMENT TO AGREEMENT

THIS AMENDMENT (hereinafter "Amendment") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Shelby County Government (hereinafter "Lessors" and Silvey Home Builders (hereinafter "Lessee").

WHEREAS, the parties previously entered into an Agricultural Lease Agreement (hereinafter "Agreement") dated April 12, 2004, for the lease of that certain real property (hereinafter "Property") situate in Shelby County, Tennessee, and more particularly described in the Agreement.

WHEREAS, Lessee shall use the Property solely for the purpose of harvest and removal of hay and preparation for the annual Tennessee safe dam inspection.

WHEREAS, the Agreement provides for an option to renew the Agreement for a five-year period.

WHEREAS, the parties now desire to enter into this Amendment to renew the Agreement for the period beginning January 1, 2009 to December 31, 2013.

NOW, THEREFORE, for and in consideration of the mutual promises of the parties to this Agreement and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. The Agreement between the parties is hereby renewed for the period beginning January 1, 2009 until December 31, 2013.
2. The total cost of this renewal period shall not exceed FIVE HUNDRED SEVENTY SIX AND NO/100 (\$576.00) Dollars per year payable in accordance with the terms of the Agreement and due without demand on or before December 31 of each year.
3. The terms and conditions of the original agreement, except as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this agreement on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

APPROVED

SHELBY COUNTY GOVERNMENT

\_\_\_\_\_  
Contract Administrator  
Assistant County Attorney

\_\_\_\_\_  
A C Wharton, Jr., Mayor

CHICKASAW BASIN AUTHORITY

BY: \_\_\_\_\_

TITLE: Chairman

SILVEY HOME BUILDERS

By: \_\_\_\_\_

Title: President

**EXHIBIT "B"**

ACKNOWLEDGMENT

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public, in, and for the State and County aforesaid, personally appeared Larry J. Silver, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the \_\_\_\_\_, the within named bargainor, a corporation, and that he as such \_\_\_\_\_, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as \_\_\_\_\_.

WITNESS my hand and official seal at office this 26 day of JAN. 09.

Pamela Russell  
Notary Public

My Commission Expires: 10/13/10



EXHIBIT "B"

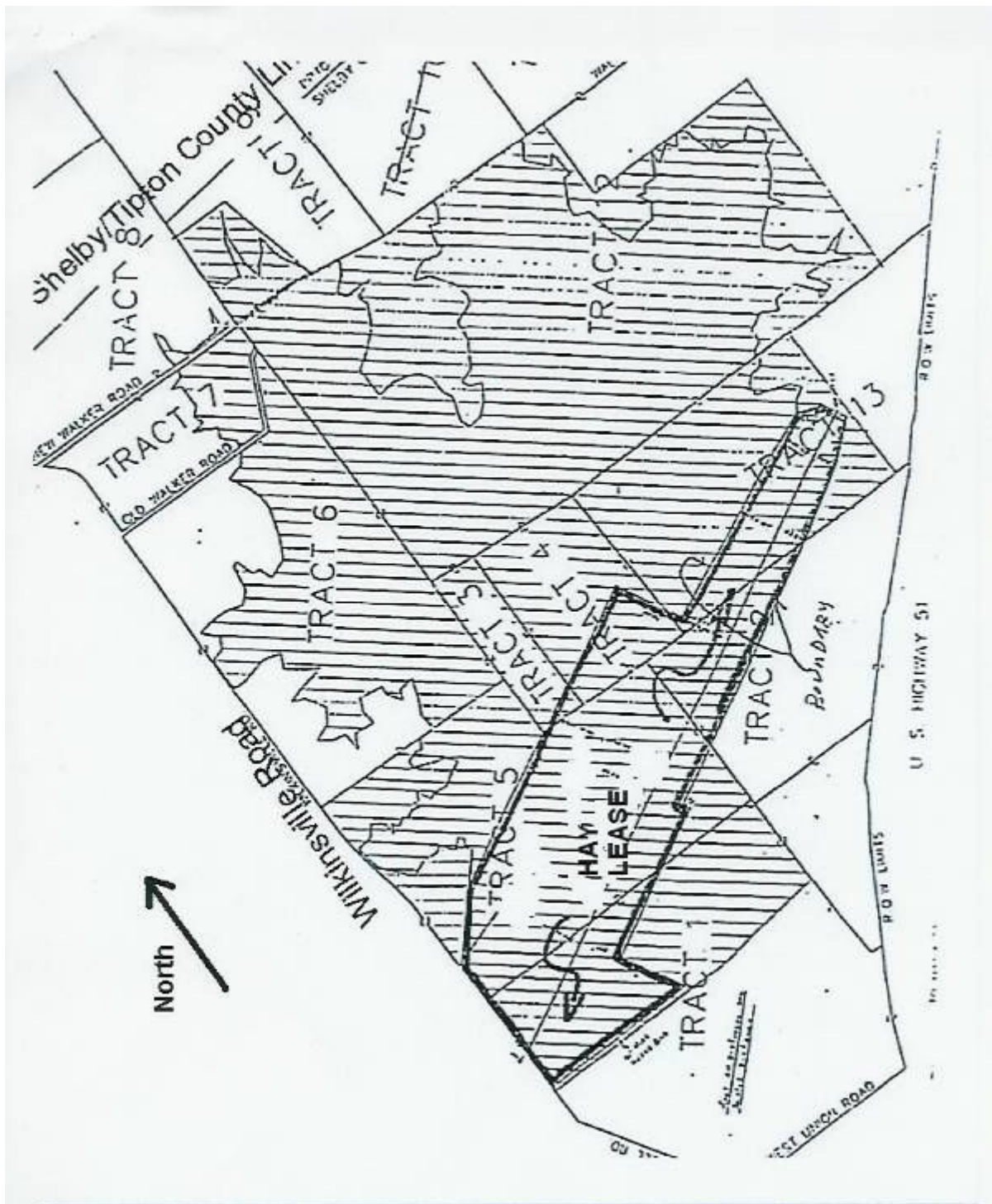


EXHIBIT "B"



## **SUMMARY SHEET**

### **I. Description of Item**

The Chickasaw Basin Authority owns certain real property known as Dam #5 (approximately 910 acres in size) located on the east side of Wilkinsville Road, south of Walker Road, within the City of Millington. The Chickasaw Basin Authority has leased 145 acres of the same to Silvey Home Builders under the terms of a five (5) year lease dated April 12, 2004 for harvesting and removing hay to generate revenues to offset its ongoing operational expenses. The existing Lease Agreement provides Silvey Home Builders the option to renew this lease for one (1) additional five (5) year term for an annual rental in the amount of \$ 576.00. Silvey Home Builders desires to exercise its option to renew this lease as provided under the terms and conditions stated in the attached Amendment to Agreement. The Chickasaw Basin Authority reviewed this matter and afterwards, approved a motion during its regularly scheduled meeting on February 13, 2009, approving said Amendment to Agreement. Based on the above, it is hereby recommended by the Administration that this Amendment to Agreement be approved.

### **II. Source and Amount of Funding**

No county funds required.

### **III. Contract Items**

Amendment to Agreement

### **IV. Additional Information Relevant to Approval of this Item**

**Chickasaw Basin Authority Property**  
Dam #5

